

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

ANTHONY DALE, BRETT JACKSON,
JOHNNA FOX, BENJAMIN
BORROWMAN, ANN LAMBERT,
ROBERT ANDERSON, and CHAD
HOHENBERY *on behalf of themselves*
and all others similarly situated,

Plaintiffs,

v.

DEUTSCHE TELEKOM AG, T-MOBILE
US, INC., and SOFTBANK GROUP
CORP.,

Defendants.

Case No. 1:22-cv-3189

Hon. Thomas M. Durkin

Magistrate Judge Jeffrey Cole

**STIPULATION AND ORDER OF DISMISSAL WITH PREJUDICE AS TO
DEFENDANT DEUTSCHE TELEKOM AG**

IT IS HEREBY STIPULATED AND AGREED by and between Plaintiffs and Defendant Deutsche Telekom AG (“DT”) (collectively, the “Parties”), by and through their respective counsel, as follows:

WHEREAS the Court, on November 2, 2023, entered a Memorandum Opinion and Order, Dkt. 114 (“Dismissal Order”), granting the motion to dismiss for lack of personal jurisdiction and improper venue filed by Defendant SoftBank Group Corp. (“Softbank”), Dkt. 76 (the “SoftBank Motion”);

WHEREAS on February 27, 2024, DT was served with the Complaint, Dkt. 1, and summons in this action;

WHEREAS the Parties met and conferred regarding DT’s intent to file a motion to dismiss

the Complaint under Rule 12(b)(2) for lack of personal jurisdiction, under Rule 12(b)(3) for improper venue, under Rule 12(b)(6) for failure to state a claim;

WHEREAS the Parties agree that the Dismissal Order's reasoning concerning the Court's lack of personal jurisdiction and improper venue applies equally to DT as to SoftBank;

WHEREAS the Parties seek to avoid the expense of relitigating the personal jurisdiction and venue issues presented in the SoftBank Motion that were decided in the Dismissal Order,

IT IS HEREBY STIPULATED, AGREED, AND ORDERED as follows:

1. DT shall hereby be deemed to have noticed a motion to dismiss the Complaint under Rule 12(b)(2) and Rule 12(b)(3) for lack of personal jurisdiction and for improper venue for the same reasons set forth in the SoftBank Motion.

2. The Parties stipulate that the Dismissal Order's reasoning concerning the lack of personal jurisdiction and improper venue applies equally to DT as it did to SoftBank.

3. Plaintiffs' claims against DT in this action are hereby dismissed in their entirety, and with prejudice (with the respective Parties to bear their own costs and attorneys' fees), for lack of personal jurisdiction and improper venue, as explained in the Dismissal Order.

4. Plaintiffs shall not seek partial judgment under Federal Rule of Civil Procedure 54(b) but reserve their right to take an appeal from the Dismissal Order after the Court enters a final judgment in this action, and this Stipulation and Order shall not impact any such right to appeal that final judgment.

5. DT reserves all of its rights, remedies, and defenses in connection with any final appeal from the Dismissal Order, and DT shall have the right to participate in any such appeal from the Dismissal Order and raise any and all arguments it has or may acquire in connection with any such appeal or any resulting legal proceedings.

6. Should the portion of the Dismissal Order granting the SoftBank Motion be reversed and remanded to this Court for further proceedings against SoftBank, then that reversal and remand shall apply equally to DT and this dismissal with prejudice on personal jurisdiction and venue grounds shall be deemed vacated, and the parties restored to their respective positions immediately before this stipulation. In such event, DT shall have the right to file a motion to dismiss under Rule 12(b)(6).

Dated: March 27, 2024

By: /s/ Gary I. Smith Jr.

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Counsel for Plaintiffs and the Proposed Class

SO ORDERED.

DATED: _____, 2024

Hon. Thomas M. Durkin
United States District Judge